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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/672,273	09/26/2003	Christopher Schura	NC 84926	8817

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Mark O. Glut  
NAVAIR, Air-11.2  
47123 Buse Rd. B2272/S257  
Patuxent River, MD 20670

EXAMINER
CHAN, KO HUNG

ART UNIT	PAPER NUMBER
3632	

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	<b>Office Action Summary</b>	
	Application No. 10/672,273	Applicant(s) SCHURA, CHRISTOPHER
	Examiner Korie H. Chan	Art Unit 3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12 is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)     | Paper No(s)/Mail Date, _____.   |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____.  | 6) <input type="checkbox"/> Other: _____.                                   |

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6 stand rejected under 35 U.S.C. 102(b) as being anticipated by Thomas (US patent no. 4,723,752). Thomas discloses a mounting system having two angle assemblies (26, figure 1) mounted on either side, wherein each angle assembly comprises bottom base plate (34, figure 2), side base plate (48, 50), fitting assembly comprising a base plate (28, figure 2) attached to bottom base plate (34), side plate (52, 54) attached to the side base plate (48, 50) and a stiffener brace (32, figure 2) connecting the base plate to the side plate with a stiffener cross bar (screw 74) attached thereto communicating with a lug stiffener interface (hole engage with screw 74) wherein the angle assemblies is mountable to a supporting understructure (stakes 42 and earth 14).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6-11 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Carlin (US patent no. 5,285,604) in view of Riech (US publication no. 2001/0037615A1) and further in view of Thomas. Carlin discloses a shelter mounted on supporting understructure of the pallet type (100) with forklift channels (94, figure 7) mountable on a transport device. However, Carlin does not disclose the use of an angle assembly to mount the shelter onto the understructure. Using angle assemblies to mount shelter to its structure is old and well-known in the art. Such angled brackets are known to be low cost in manufacturing and provide quick mounting at a desire location around the shelter. Reich teaches a shelter (12) mounted on an understructure having using plurality of angled assemblies (36) having base plate (31) and side plate (32) at right angles to the base plate (31) and having mounting holes (38) to secure the shelter to the understructure. It would have been obvious to one of ordinary skill in the art to have mounted Carlin's shelter via angle assemblies as taught by Riech to provide a quick mounting of at a low cost as is known in the art. However, Carlin and Riech combined does not show the angled assemblies having pivoting base plate and side plate with fitting assembly as claimed. Thomas teaches a mounting system having two angle assemblies (26, figure 1) mounted on either side, wherein each angle assembly comprises bottom base plate (34, figure 2), side base plate (48, 50), fitting assembly comprising a base plate (28, figure 2) attached to bottom base plate (34), side plate (52, 54) attached to the side base plate (48, 50) and a stiffener brace (32, figure 2) connecting the base plate to the side plate with a stiffener cross bar (screw 74) attached thereto communicating with a lug stiffener interface (hole engage with screw 74).

It would have been obvious to one of ordinary skill in the art to have modify the angle assembly of Carlin and Riech combined such that it is pivotable with a supporting brace as taught by Thomas to facilitate collapsibility for compactness during storage. Regarding claim 9, it would have been an obvious matter of design choice to mad ethe mounting assembly of aircraft grade material.

Claim 12 is allowed.

#### ***Response to Arguments***

Applicant's arguments filed 1/11/2005 have been fully considered but they are not persuasive. Regarding the Thomas reference, applicant argues that it does not teach a supporting understructure where the angle assembly is attached. Examiner contends Thomas's angle assemblies are mounted to the stakes 42 and earth 14 or the supporting understructure. Regarding applicant's argument that the Thomas' assembly is not for used with a shelter, as stated by applicant, applicant is not claiming the shelter but rather intended to be used with the shelter. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963).

Regarding the combination of Carlin, Reich, and Thomas, applicant argues that none suggest or teach the use of a mounting system for use with a shelter and transport

device, again as stated in applicant's remarks applicant is not claiming the combination of the shelter or the transport device. Carlin, Reich and Thomas combined demonstrated all claimed features of applicant's invention. Applicant's intended usage is not accorded with patentable weight. Furthermore, Carlin does not teach a movable shelter on an understructure with forklift channels for moving. To secure the shelter on the understructure via angle assemblies is taught by Reich. Thomas merely teaches substituting one well-known type of angle brace for another which would have been obvious and well within the ambit of one of ordinary skilled in the art.

### ***Conclusion***


**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Korie H. Chan whose telephone number is 703-305-8079. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on 703-308-2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Korie H. Chan  
Primary Examiner  
Art Unit 3632

khc  
March 24, 2005